

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 321G.2, 321I.2, and 462A.16, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 44, “Boating, Special Events,” Iowa Administrative Code.

Currently, the statutory requirements regarding rules for snowmobile and all-terrain vehicle (ATV) special events are not addressed. Chapter 44 currently contains only special event permit requirements for boating. Therefore, the Natural Resource Commission is amending Chapter 44 to establish special event permit requirements for ATVs and snowmobiles, while also updating the boating requirements. The proposed amendments also address and support the Department’s new centralized special events application system.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 2, 2010. Such written comments should be directed to Rhonda Fowler, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-6794; or E-mail rhonda.fowler@dnr.iowa.gov. Persons who wish to convey their views orally should contact Rhonda Fowler at (515)281-3208, or at the Bureau offices on the fourth floor of the Wallace State Office Building.

These amendments are intended to implement Iowa Code sections 321G.2, 321I.2, and 462A.16. The following amendments are proposed.

ITEM 1. Amend **571—Chapter 44**, title, as follows:

~~BOATING, LAW ENFORCEMENT BUREAU’S SPECIAL EVENTS~~

ITEM 2. Rescind rule 571—44.1(462A) and adopt the following **new** rule in lieu thereof:

571—44.1(321G,321I,462A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Administrative processing fee*” means the fee collected for the processing of each special event application that is required to be submitted for specific boat, snow, and ATV events.

“*All-terrain vehicle*” or “*ATV*” means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

“*Authorization letter*” means a letter issued by the department that enumerates any stipulations, requirements, and contingencies that the applicant must accept and adhere to throughout the duration of the event. Special consideration will be given to items designed to provide safety to participants and spectators and protection to natural resources. The authorization letter will serve as the permit for the event.

“*Centralized special events application system*” means the Web-based application processing system used by applicants to submit an application and by department staff to process an application and provide notification of approval or denial of the application. The system will publish approved applications on a calendar of events Web page to inform the general public of scheduled events on public land, ice, and water.

“*Commission*” means the natural resource commission.

“Demonstration” means an outward display or show; a meeting, gathering, or parade; a competitive event, tournament, or race; or a practical showing of how something is used or works, with or without the intent to sell.

“Department” means the Iowa department of natural resources.

“Exhibition” means the act or fact of exhibiting or a public show or display.

“Navigable waters” means all lakes, rivers, and streams that can support a vessel capable of carrying one or more persons during a total of six months in one out of every ten years.

“Off-road utility vehicle” means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control lever for control.

“Snowmobile” means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread and which is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle, as defined in Iowa Code section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

“Special event” means an organized race, tournament, exhibition, or demonstration of limited duration that is conducted on public land, ice, or waters of the state under the jurisdiction of the commission according to a prearranged schedule and in which general public interest is manifested. Elements evaluated to determine if a “special event” permit is needed include: whether the event is open to the public, charges an admission fee, awards prizes, or is promoting a competition; whether attendance is solicited through advertising, invitation, or other medium; and whether the event may adversely impact the use of the area by others. Specific boating events that are considered to be special events include regattas, motorboat or other boat races, marine parades, and tournaments.

“Vessel” means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are considered watercraft.

ITEM 3. Rescind rule 571—44.2(462A) and adopt the following **new** rule in lieu thereof:

571—44.2(321G,321I,462A) Affected public lands and waters. These rules are applicable to all fee title lands and waters under the jurisdiction of the commission; dedicated lands and waters under the jurisdiction of the commission and managed by the commission for public access to a meandered sovereign lake or meandered sovereign river; meandered sovereign lakes; meandered sovereign rivers; and sovereign islands, except those portions of the Iowa River and the Mississippi River where title has been conveyed to charter cities.

ITEM 4. Adopt the following **new** rules 571—44.3(321G,321I,462A) to 571—44.20(321G,321I,462A):

571—44.3(321G,321I,462A) Permit required. A permit issued by the department is required in order to conduct a special event as defined in this chapter on public land, ice, or waters under the jurisdiction of the natural resource commission.

44.3(1) Any one of these criteria may determine the need for a special event permit:

- a. The event is open to the public.
- b. The event charges an admission fee.
- c. The event awards prizes.
- d. The event promotes competitive events.
- e. Attendance is solicited through advertising, invitation, or other solicitation.
- f. The event may adversely impact the use of the area by others.

44.3(2) Dealer demonstrations require a special event permit.

571—44.4(321G,321I,462A) Permit conditions. The department may impose special conditions not specifically covered herein for any special event if deemed necessary to protect the resource or to ensure

public safety. Special conditions, contingencies, restrictions, and stipulations will be included in the authorization letter that the applicant or sponsoring organization receives if the application for the event is approved.

571—44.5(321G,321I,462A) Application procedures. The following procedures shall be used when applying for a special event permit:

44.5(1) Application shall be made on an electronic form accessed through the department's centralized special events application system.

44.5(2) The application shall be received electronically by the department via the centralized special events application system.

44.5(3) Applications shall be accepted beginning January 1 in a given year for requested event dates extending to March 1 of the following year, but applications shall not be accepted less than 30 days prior to the requested date for the event.

44.5(4) The number of events at any one access area during a given day may be restricted if deemed necessary to avoid congestion with the public or competing events. The commission shall consider the capacity of facilities such as boat ramps, docks, and parking lots when processing applications.

44.5(5) Permits are not transferable.

571—44.6(321G,321I,462A) Alternate dates. Because some events can be severely impacted by inclement weather, alternate dates for the event may be submitted by the applicant. The department may, at its discretion, approve alternate dates for the event to be held. The applicant must be willing to accept any of the dates that are submitted. If alternate dates are approved, the event is still approved for only one date, with the expectation that the primary date approved will be used unless the use of the primary date is not possible. If an alternate date must be used for the event, either the applicant, sponsoring organization, or event official must contact the local conservation officer and determine the best date for the event from the alternates available. The applicant, sponsoring organization, or event official must then contact the program coordinator with the new date so that the calendar of events can be updated.

571—44.7(321G,321I,462A) Insurance coverage. The event sponsor is responsible for securing event insurance and must name the department as an additional insured. Insurance information shall be available at the time the application is submitted. The event official must have a copy of this coverage available at the event location and must present it to department personnel upon request.

571—44.8(321G,321I,462A) Nonrefundable fees. The administrative fee for processing each special event application is \$25. The fee is nonrefundable.

571—44.9(321I) ATV special events—inclusion of vehicles. Vehicles that may participate in an ATV special event include all-terrain vehicles and off-road motorcycles that display a current department registration. Off-road utility vehicles may be included in events that take place in locations that are open for off-road utility vehicle use. The vehicles must display a current department registration.

571—44.10(321G,321I,462A) Buildings or structures placed on ice. This rule shall govern the placement, construction, or erection of structures placed on ice during a special event.

44.10(1) Vendor information provided on application. An applicant for a special event permit shall provide on the application whether vendors will be on site during the event and the names and addresses of the vendors.

44.10(2) Disqualification of vendors. If a conservation officer, program coordinator, or other department staff are aware of information regarding a vendor which makes the vendor's inclusion in the event a safety concern for an otherwise-approved application, then the permit shall be issued contingent upon the exclusion of the identified vendor.

44.10(3) Owner information. The full name, street address, and city of the building or structure owner shall be displayed legibly in a color contrasting to the background on all sides of the building or structure in block letters at least four inches in height.

44.10(4) Accessibility. Buildings or structures shall not be locked when in use.

44.10(5) Reflectors. Buildings or structures shall have reflectors attached to all sides of the building or structure in such a manner to enable them to reflect light at all times between the hours of sunset and sunrise.

571—44.11(321G) Snowmobile special events—registration exemptions. Snowmobiles that are registered as antique snowmobiles under Iowa Code section 321G.4 shall be allowed to participate in events that are specifically designated for antique snowmobiles. An antique snowmobile is a snowmobile that is more than 30 years old.

571—44.12(462A) Boating special events—registration exemptions. Vessels entered in special events shall not be required to be registered as stated in Iowa Code sections 462A.4 and 462A.5, subject to the following regulations.

44.12(1) Vessel and participant list. Sponsors of the special event shall maintain a list of the names and addresses of all persons participating in the event and a description of each vessel in the event.

44.12(2) Vessels identified. Each vessel in the special event shall be labeled with an identifying number or letter, which shall be clearly visible and which shall be recorded with the names and addresses of vessel passengers on the list as provided for in subrule 44.12(1).

44.12(3) Exemption period. Any vessel entered into a special event may be exempted from state registration requirements for the full 24-hour period of each day covered by the permit to conduct such event and as issued under Iowa Code section 462A.16.

571—44.13(462A) Mississippi River or Missouri River. For special events that take place on the Mississippi River or Missouri River, the applicant must apply through the United States Coast Guard Office in St. Louis, Missouri. A department special event application is not needed for fireworks or boating events on the Mississippi River or Missouri River as long as Coast Guard permits have been secured.

571—44.14(321G,321I,462A) Other code provisions. The individuals or organizations sponsoring a special event are responsible for ensuring full compliance with regulations of Iowa Code chapters 321G, 321I, and 462A and any other Iowa Code chapters or sections referenced in the authorization letter.

571—44.15(321G,321I,462A) Indemnification. The applicant for a special event permit shall understand and agree that neither the state of Iowa nor the department of natural resources will be responsible for any injury to persons or damage to property arising out of or incidental to the activities which are the subject of the applicant's application. The applicant shall agree to indemnify and hold harmless the state of Iowa and the department of natural resources against all liabilities, costs, and expenses which may arise as consequences of the department's granting a special event permit. The applicant must consent to these stipulations by checking an attestation box on the application.

571—44.16(321G,321I,462A) Authority to cancel or stop an event. At any time that a conservation officer, park manager, or park ranger feels that an event is not in compliance with the permit issued or that safety concerns warrant canceling or stopping the event, the conservation officer, park manager, or park ranger has the authority to do so.

571—44.17(321G,321I,462A) Other permits. Special event permits issued by the department are granted subject to the applicant's obtaining all other permits from any government agency which may have jurisdiction in the area where the event is taking place. Examples of additional permits that must be secured are local permits, Army Corps of Engineer permits, liquor permits, and fireworks permits.

571—44.18(321G,321I,462A) Future event permits. The issuance of future permits to an applicant, sponsoring organization, or event official is contingent upon the applicant's, sponsoring organization's, or event official's compliance with the stipulations, requirements, and contingencies associated with any current or past permits that have been granted.

571—44.19(321G,321I,462A) Nonexclusive use of area. Issuance of a special event permit does not imply that the permittee has exclusive use of the land, water, or ice that is the subject of the permit.

571—44.20(321G,321I,462A) Other special events. These rules do not apply to special events that are governed by the department's fisheries bureau, parks bureau, or wildlife bureau.

ITEM 5. Adopt the following **new** implementation sentence in **571—Chapter 44**:

These rules are intended to implement Iowa Code sections 321G.2, 321I.2, and 462A.16.